

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution - General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on 1-14-05.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor prevailed** on the majority of the issues of medical necessity. Therefore, upon receipt of this Order and in accordance with §133.308(r)(9), the Commission hereby orders the respondent and non-prevailing party to **refund the requestor \$460.00** for the paid IRO fee. For the purposes of determining compliance with the order, the Commission will add 20 days to the date the order was deemed received as outlined on page one of this order. The amount due the requestor for the medical necessity issues is \$3,601.32.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

The office visits, therapeutic exercises, neuromuscular re-education, therapeutic procedures-group, chiropractic manipulation-extremities and gait training **were found** to be medically necessary. The electrical stimulation, massage, manual therapy technique, ultrasound, chiropractic manipulation treatments-spinal, chiropractic manipulation treatments-3-4 areas of the spine and mechanical traction **were not found** to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services.

Based on review of the disputed issues within the request, the Medical Review Division has determined that medical necessity issues were not the only issues involved in the medical dispute to be resolved. This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

On 2-11-05, the Medical Review Division submitted a Notice to requestor to submit additional documentation necessary to support the charges and to challenge the reasons the respondent had denied reimbursement within 14 days of the requestor's receipt of the Notice.

Review of the requester's and respondent's documentation revealed that neither party submitted copies of EOB's for 99080 on 5-28-04. Per Rule 133.307 (e)(2)(A) the requestor must submit a copy of all medical bills as originally submitted to the carrier for reconsideration in accordance with 133.304. **Therefore, reimbursement is not recommended.**

The carrier denied CPT Code 99080-73 on 6-2-04 and 8-30-04 with a V for unnecessary medical treatment, however, the TWCC-73 is a required report and is not subject to an IRO review per Rule 129.5. The Medical Review Division has jurisdiction in this matter and, therefore, recommends reimbursement. Requestor submitted relevant information to support delivery of service. **Recommend reimbursement of \$30.00.**

This Findings and Decision is hereby issued this 28th day of March 2005.

Donna Auby
Medical Dispute Resolution Officer
Medical Review Division

On this basis, and pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the Respondent to pay the unpaid medical fees outlined above as follows:

- In accordance with Medicare program reimbursement methodologies for dates of service on or after August 1, 2003 per Commission Rule 134.202 (c);
- plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this Order.

This Order is applicable to dates of service 3-26-04 through 9-15-04 as outlined above in this dispute. The amount due the requestor for the fee issues is \$30.00.

The total of both the medical necessity and fee issues is \$3,631.32.

This Order is hereby issued this 28th day of March 2005.

Margaret Ojeda, Manager
Medical Necessity Team
Medical Dispute Resolution
Medical Review Division

MO/da

Enclosure: IRO decision

March 22, 2005

Texas Workers' Compensation Commission
Medical Dispute Resolution
Fax: (512) 804-4868

Re: Medical Dispute Resolution
MDR #: M5-05-1447-01
TWCC#:
Injured Employee:
DOI:
SS#:
IRO Certificate No.: IRO 5055

Dear Ms. ____:

IRI has performed an independent review of the medical records of the above-named case to determine medical necessity. In performing this review, IRI reviewed relevant

medical records, any documents provided by the parties referenced above, and any documentation and written information submitted in support of the dispute.

I am the Secretary and General Counsel of Independent Review, Inc. and I certify that the reviewing healthcare professional in this case has certified to our organization that there are no known conflicts of interest that exist between him and any of the treating physicians or other health care providers or any of the physicians or other health care providers who reviewed this case for determination prior to referral to the Independent Review Organization.

Information and medical records pertinent to this medical dispute were requested from the Requestor and every named provider of care, as well as from the Respondent. The independent review was performed by a matched peer with the treating health care provider. This case was reviewed by a physician who is licensed in chiropractic, and is currently on the TWCC Approved Doctor List.

Sincerely,

Gilbert Prud'homme
General Counsel

GP:thh

**REVIEWER'S REPORT
M5-05-1447-01**

Information Provided for Review:

TWCC-60, Table of Disputed Services, EOB's

Information provided by Requestor:

- Correspondence
- Office visits 02/10/04 – 09/27/04
- Daily progress notes 02/10/04 – 01/26/05
- FCE 10/28/04
- Radiology reports 03/01/04 – 09/27/04

Information provided by Respondent:

- Correspondence
- Designated doctor reviews

Information provided by Pain Management Specialist:

- Office visits 02/25/04 – 01/14/05

Information provided by Podiatrist:

- Office visits 04/29/04 – 10/07/04

Information provided by Orthopedist:

- Office visits 08/17/04 – 12/28/04

Clinical History:

The records indicate the patient injured his left foot and ankle in a work-related accident on ____.

Disputed Services:

Electrical stimulation, massage, manual therapy-tech., ultrasound, office visits, chiropractic manual treatment-spinal, therapeutic exercise, neuromuscular re-education, therapeutic procedure-group, chiropractic manipulation, mechanical traction, gait training during the period of 03/16/04 thru 09/15/04

Decision:

The reviewer partially agrees with the determination of the insurance carrier as follows:

Medically necessary during the period in dispute:

- Office visits 99212 & 99213
- Therapeutic exercise 97110
- Neuromuscular re-education 97112
- Therapeutic procedures-group 97150
- Chiropractic manipulation-extremities 98943
- Gait training 97116

Not medically necessary during the period in dispute:

- Electrical stimulation 97032
- Massage 97124
- Manual therapy technique 97140
- Ultrasound 97035
- Chiropractic manual treatments-spinal 98940
- Mechanical traction 97012
- Chiropractic manipulation-3/4 areas of the spine 98941

Rationale:

The records indicate the patient was initially injured on the job. He sought care for his injuries and an evaluation and aggressive treatment program was begun. Over the course of treatment, appropriate diagnostic testing and referrals for pain medication and additional diagnostic testing was performed. A specialist evaluation recommended continuation of therapy and treatment over the course of denied services.

National treatment guidelines allow for this type of treatment for this type of injury. However, they do not allow for ongoing passive therapy modalities to extend after 6-8 weeks of treatment. On each date of service, there is sufficient documentation and clinical justification to warrant the services of 99212 office visit, 97110 therapeutic exercise, 97112 neuromuscular re-education, 97150 therapeutic procedures-group, 99213 office visit, 98943 chiropractic manipulation-extremities, and 97116 gait training during the period of 04/29/04-09/15/04.

However, there is no clinical justification and no nationally accepted guidelines that would allow for 97032 electrical stimulation, 97124 massage, 97140 manual therapy technique, 97035 ultrasound, 98940 chiropractic manual treatments-spinal, 97012 mechanical traction, or 98941 chiropractic manipulation 3-4 areas of the spine to be utilized for an on-the-job injury that occurred on ____.

In conclusion, the records clearly indicate the significance of this patient's injury, which did require ongoing active care for an extended period of time. However, the utilization of passive therapies beyond a 6-8 week treatment program is not medically necessary, reasonable, usual, or customary for treatments of on-the-job injuries or treatment for this on-the-job injury.